

FILED

IN THE IOWA DISTRICT COURT FOR DECATUR COUNTY

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STATE OF IOWA ex rel.
THOMAS J. MILLER, 99AG25112
ATTORNEY GENERAL OF IOWA,

Plaintiff,

vs.

PROFESSIONAL BUSINESS
SERVICES, INC.; UNITED LIVESTOCK
SERVICES, L.L.C.; RIO BACA, INC.;
GEORGE L. YOUNG; AND KATHLEEN I.
McCONNELL

Defendants.

Equity No.

DISTRICT COURT
EQUITY NO. 00458
TRACY HARRIS, CLERK

PETITION IN EQUITY WITH
REQUEST FOR TEMPORARY AND
PERMANENT INJUNCTIVE
RELIEF AND TO HAVE THE
STATE OF IOWA APPOINTED
RECEIVER PURSUANT TO
IOWA CODE SECTION
714.16(8).

COMES NOW Plaintiff State of Iowa ex rel. by Thomas J. Miller, Attorney General of Iowa, pursuant to the Iowa Consumer Fraud Act, Iowa Code section 714.16, and for its claim against the defendants states:

PARTIES

1. Thomas J. Miller is the Attorney General of Iowa and brings this action on behalf of the State of Iowa, a sovereign state of the United States of America.

2. Defendant Professional Business Services, Inc. ("PBS") is a Missouri corporation with its registered office located at 1220 Washington, SU 300, Kansas City, Missouri. PBS has and continues to conduct business in Iowa with its principal place of business in Iowa located at P.O. Box 345, Osceola, Iowa.

3. Defendant United Services, L.L.C., ("United") is a Missouri domestic limited liability company with its Iowa registered agent, CT Corporation System, located at 2222 Grand Ave., Des Moines, Iowa. United has and continues to conduct business in Iowa.

4. Defendant Rio Baca, Inc., ("Rio Baca") is an Iowa corporation located at RR, Grand River, Decatur County, Iowa. Rio Baca's registered agent, Jim McLean, is located at RR 1, Grand River, Iowa. Rio Baca has and continues to conduct business in Iowa.

5. Defendant George L. Young is an officer of PBS, United and Rio Baca. His address is Box N., Grant City, Missouri, 64456.

6. Defendant Kathleen I. McConnell is an employee and an officer of PBS. Her address is 1311, NE Parvin Rd, Kansas City, Missouri.

JURISDICTION AND VENUE

7. Iowa Code section 714.16 (7) authorizes the Attorney General to commence equitable proceedings against any person who has engaged in, is engaging in, or is about to engage in any unfair, deceptive, fraudulent or other practice declared to be unlawful under Iowa Code section 714.16. The Attorney General may seek a temporary restraining order, preliminary injunction,

permanent injunction, restitution or civil penalties not to exceed \$40,000.00 per violation. In addition, the Attorney General is entitled to recover court costs, investigation costs, and reasonable attorneys' fees pursuant to Iowa Code section 714.16 (11).

8. Venue for this action lies in Decatur County, Iowa, pursuant to Iowa Code Section 714.16(10).

FACTS

9. The defendants are engaged in the promotion and sale of a cattle investment program using oral and written sales presentations promising Iowa consumers lucrative investment returns.

10. Through advertisements, seminars, and direct communications with customers, the defendants presented the picture of entities and/or individuals with the expertise, financial capacity, and contacts with cattle producers that would result in substantial profits for Iowa consumers that purchased the goods and services sold by the defendants.

11. The defendants represented to Iowa consumers that the defendants would arrange for the purchase of cattle, arrange for the care and feeding of said cattle, sell the cattle to processors, and then pay the consumers a high rate of return. However, the defendants have failed to use the monies paid to them by Iowa consumers in the manner represented resulting in a

substantial shortfall in cattle and as a result a tremendous loss to Iowa consumers. Attached and incorporated by this reference is a partial list setting out by name, and address, Iowa consumers that, based on the misrepresentations made by the defendants, purchased the goods or services sold by the defendants. See, Exhibit "A".

UNFAIR AND DECEPTIVE PRACTICES

12. The defendants have engaged in, are engaging in, and are likely to continue to engage in practices which are unfair, deceptive, omissive or otherwise unlawful, pursuant to Iowa Code section 714.16(2)(a). False and misleading assertions and claims made by the defendants which are in violation of Iowa Code section 714.16(2)(a) include, but are not limited to, the following:

- a) defendants, through the use of their industry contacts and expertise, would use the consumer's funds to arrange for the purchase, care and feeding of cattle;
- b) defendant's would, through the use of their industry contacts and expertise, merchandise the above-referenced cattle at top prices resulting in Iowa consumers receiving high returns as a result of their purchase of the business opportunity marketed and sold by the defendants; and
- c) defendants would pay all of the funds generated by the sale of the above-referenced cattle (minus specifically identified feed and other costs) to consumers resulting in Iowa consumers receiving high returns as a result of their purchase of the business opportunity marketed and sold by the defendants.
- d) defendants sold more, or failed to purchase, cattle as

represented in their marketing resulting in what is commonly known as a "Ponzi" scheme.

13. Pursuant to Iowa Code section 714.16(7), it is not necessary to establish reliance, damages, or intent to deceive to seek remedies under the Iowa Consumer Fraud Act. However, Iowa consumers have been damaged by the defendant's failure to appropriately utilize the funds paid to them by Iowa consumers in reliance upon untrue and deceptive promises defendants knew or should have known could not be kept and representations they knew or should have known were false and misleading.

14. Defendants concealed, suppressed or omitted material facts with the intent that consumers rely upon the deceptive information presented by the defendants.

15. Pursuant to Iowa R. Civ. P. 9, no bond is required of the State in seeking injunctive relief.

16. No application for injunctive relief has previously been presented to any Court regarding the relief requested below.

17. It is in the public interest that a preliminary injunction be entered to prevent the unlawful practices described herein and to minimize the losses and damages that will result if the defendants continue the practices as described during the pendency of this action. Unless a preliminary injunction is forthcoming, additional consumers will suffer unnecessary loss.

18. Defendants are receiving funds as payment for cattle merchandised as part of the misrepresentations made to consumers.

Assets obtained by the defendants as a result of their misrepresentations to consumers in all probability exist, but have not yet been identified. In addition, the cattle purchased by the defendants and placed in feedlots in Iowa continue to need care and at present no entity exist that is capable to providing these necessary services. See, Exhibits "B" and "C" which are attached and incorporated by this reference. Finally, an inexpensive claims handling system needs to be established to safeguard the collected funds, to resolve the validity of claims and to equitably distribute any collected funds to consumers with valid claims.

19. It is in the public interest that the State of Iowa be named receiver of "... all the goods and chattels, rights and credits, moneys and effects, lands, and tenements, books, records, documents, papers, choses in action, bills, notes, and property of every description, derived by means of any practice declared to be illegal and prohibited by this section, including property with which such property has been mingled if it cannot be identified in kind because of such commingling, ..." and that as receiver, the State be granted authority to "... sell convey, and assign the same and hold and dispose of the proceeds thereof under direction of the court." I. C. section 714.16(8). Absent the appointment of the State of Iowa as receiver, pursuant to the express authority granted by section 714.16(8), there is no

mechanism in existence to protect and fairly distribute pursuant to the oversight of this Court, the above-described assets.

20. There is not an alternative regulatory or administrative process to address the potential damage to Iowa consumers caused by the above-described activities of the defendants.

WHEREFORE, plaintiff prays the Court:

A. Enter a temporary injunction requiring the defendants to cease and desist from further solicitations, promotions or activity associated with their marketing or sale of a business opportunity involving cattle in the State of Iowa. In addition, the above referenced temporary injunction should enjoin the movement of any cattle that are connected in any way in the to the business opportunity marketed by the defendants unless prior express written authorization is obtained from the State of Iowa.

B. Enter an order appointing the State of Iowa as temporary receiver of the property identified in Iowa Code section 714.16(8) and temporarily granting the receiver all of the authority identified in that section.

C. Upon notice and hearing as the Court deems appropriate, enter an order appointing the State of Iowa as receiver of the property identified in Iowa Code section 714.16(8) and granting the receiver all of the authority identified in that section.

D. Upon notice and hearing as the Court deems appropriate,

enter a preliminary injunction requiring the defendants to cease and desist from the solicitation, promotion or activity associated with their marketing or sale of a business opportunity involving cattle in the State of Iowa;

E. After a hearing on the merits, enter a permanent injunction pursuant to Iowa Code section 714.16(7) to enjoin the defendants and their officers, directors, employees, agents, successors, assigns, and all other persons, individually and in any business or corporate capacity, acting in concert with or participating with the defendants, who have actual or constructive notice of the Court's injunction, by personal service or otherwise, from engaging in the unfair and deceptive practices set forth herein and which violate Iowa Code section 714.16, and barring the defendants and their officers, directors, employees, agents, successors, assigns, other related business entities, and all other persons acting in concert or participating with the defendants from promoting or soliciting the sale of goods or services relating in any way to the sale of any goods and services relating to the merchandising of a business opportunity involving cattle in the State of Iowa.

F. Award restitution relief to consumers who have purchased the goods and services marketed by the defendants.

G. Award plaintiff its investigative costs and attorney's fees pursuant to Iowa Code section 714.16(11).

H. Enter civil penalties pursuant to Iowa Code section 714.16(7) in an amount not to exceed \$40,000 per violation, per defendant.


I. Assess the costs of the action against the defendants.

J. Award plaintiff any interest as allowed by law.

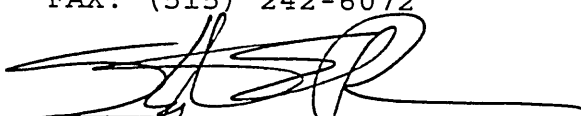
K. Enter such other and further equitable relief as the Court believes fair and appropriate.

Respectfully submitted,

THOMAS J. MILLER
Attorney General of Iowa



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